

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION

FEB 16 2024

CLERK, U.S. DISTRICT COURT  
BY *[Signature]* DEPUTY  
WESTERN DISTRICT OF TEXAS

THE STATE OF TEXAS, §  
Plaintiff, §  
§  
v. §  
§  
U.S. DEPARTMENT OF HOMELAND §  
SECURITY, ALEJANDRO §  
MAYORKAS, in his official capacity as §  
Secretary of the U.S. Department of §  
Homeland Security, U.S. CUSTOMS & §  
BORDER PROTECTION, U.S. §  
BORDER PATROL, TROY A. §  
MILLER, in his official capacity as §  
Acting Commissioner for U.S. Customs §  
& Border Protection, JASON OWENS, §  
in his official capacity as Chief of U.S. §  
Border Patrol, and JUAN BERNAL, in §  
his official capacity as Acting Chief §  
Patrol Agent, Del Rio Sector U.S. Border §  
Patrol, §  
§  
Defendants. §

Civil Action No. DR-23-CV-00055-AM

ORDER

It is **ORDERED** that the parties at the March 4, 2024 and March 5, 2024 hearings be prepared to discuss whether the Fifth Circuit Court of Appeals remanded this case for the Court to make new factual findings only, or to make legal determinations in light of new factual findings to be made after taking evidence.

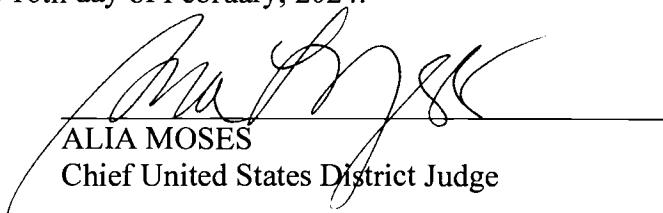
It is **FURTHER ORDERED** that the parties at the March 4, 2024 and March 5, 2024 hearings be prepared to discuss how new factual findings may impact appellate review of the Court's November 29, 2023 preliminary injunction decision, considering that the evidence to be taken at the hearings will not have been before this Court before the preliminary injunction decision was entered.

It is **FURTHER ORDERED** that at the March 4, 2024 and March 5, 2024 hearings, the parties submit photographs, videos, and maps needed to make new factual findings.

It is **FURTHER ORDERED** that the scope of the March 4, 2024 and March 5, 2024 hearings include all the issues raised in the parties' joint brief [ECF No. 83], including but not limited to:

- A. The Defendants' use of and access to Shelby Park and surrounding areas;
- B. The Plaintiff's control of municipal and non-municipal land in and around Eagle Pass, Texas since November 29, 2023;
- C. The scope of the physical area that the Plaintiff has occupied in and near the Shelby Park area since November 29, 2023;
- D. The Defendants' access to the Rio Grande in and near the Shelby Park area since November 29, 2023, including but not limited to boat ramp access;
- E. The Defendants' ability to surveil the border, patrol the border, apprehend migrants, process migrants, and perform other duties in and near the Shelby Park area since November 29, 2023;
- F. The Defendants' ability to respond to medical emergencies in and near Eagle Pass, Texas since November 29, 2023, including the Defendants' ability to access Shelby Park and surrounding areas on or about January 12, 2024;
- G. Events in and near the Shelby Park area on or about January 12, 2024, including but not limited to migrant drownings; and
- H. The frequency of migrant crossings in and near Eagle Pass, Texas since November 29, 2023.

SIGNED and ENTERED on this 16th day of February, 2024.



ALIA MOSES  
Chief United States District Judge